

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

LESLIE A. FARBER, LLC

33 Plymouth Street, Suite 204

Montclair, NJ 07042

Ph. (973) 509-8500

Attorneys for Defendant John Doe subscriber assigned IP address 76.117.94.168

STRIKE 3 HOLDINGS, LLC,

Plaintiff,

vs.

**JOHN DOE SUBSCRIBER ASSIGNED IP
ADDRESS 76.117.94.168,**

Defendant.

Hon. Michael A. Shipp, U.S.D.J.

Case No. 3:18-cv-16593-MAS-TJB

CIVIL ACTION

**DECLARATION OF
LESLIE A. FARBER**

1. I, Leslie A. Farber, Esq., counsel for defendant John Doe subscriber assigned IP address 76.117.94.168, submit this Declaration in support of this defendant's Motion to Clawback and replace document 6-2 and related relief.

2. Defendant initially filed a motion to quash plaintiff's subpoena to Comcast, or, in the alternative, to Proceed Anonymously and for a Protective Order, on February 12, 2019.

3. An exhibit to that motion was a copy of Comcast's cover letter to defendant, plaintiff's subpoena to defendant's ISP Comcast, which sought to obtain the name and address of defendant John Doe subscriber assigned IP address 76.117.94.168 (hereinafter "John Doe") and the Court's prior Order permitting service of the subpoena.

4. When I filed the motion to quash, et al, on February, 12, 2019, I redacted John Doe's name and address on the exhibit so as to preserve that person's anonymity at least and until the Court ruled on the motion to quash.

5. When I received a copy of the Comcast letter, plaintiff's subpoena and court order from my client, I reviewed the entire document and specifically and carefully deleted all extraneous pages from the document including the attorney fee agreement, and then proceeded to redact in black that person's name and any other identifying information from the document to prepare for filing it with the Court. When preparing motions of this sort (or to seek an order for the defendant's name to remain anonymous on court records), as I have done several times before, I am aware how important it is to make sure that any information and documents filed with the Court do not reveal the client's name or address since otherwise doing so might defeat the purpose of the motion. That is why I check and double check the documents when preparing the motion to quash or to remain anonymous for filing.

6. However, through an undetermined computer error or glitch, a page from the agreement showing John Doe's name and address in this case inadvertently appeared at the end of the exhibit that was filed with the Court. In the several motions of this type (or motions to keep a defendant's identity anonymous on the court's records) that I have filed in this District or the Southern or Eastern District of New York, this is the first and only time a problem like this has occurred.

7. Nevertheless, I first learned of the incorrectly filed document in this case on March 5, 2019, when reviewing an email from opposing counsel from the previous afternoon (March 4 at 4:00 p.m.), a true copy of which is annexed hereto as "Exhibit A."

8. Upon learning of this problem, I immediately contacted the Court on March 5, 2019, explained the circumstances and asked for direction on how proceed to have the incorrectly filed document replaced with the correct one. As requested by the Court, I immediately prepared and emailed a letter to the Court and adversary counsel which explained the circumstances, asked that

the incorrect document be removed from the Court's docket and replaced with the correct one, and that adversary counsel destroy all paper and electronic copies of the incorrectly filed document. *See* letter dated March 5, 2019, a true copy of which is annexed hereto as "Exhibit B."

9. After some back and forth letters from the parties to the Court, the Court instructed defendant to file the instant motion.

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: April 12, 2019

/s/ Leslie A. Farber
Leslie A. Farber
eMail: LFarber@LFarberLaw.com